



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-832]

Acrylonitrile-Butadiene Rubber from France: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that acrylonitrile-butadiene rubber (AB rubber) from France is being, or is likely to be, sold in the United States at less than fair value (LTFV). Commerce also preliminarily determines that critical circumstances exist with respect to certain imports of subject merchandise. The period of investigation is April 1, 2020, through March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Patrick Barton, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0012.

### SUPPLEMENTARY INFORMATION:

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on July 27, 2021.<sup>1</sup> On November 17, 2021, Commerce postponed the preliminary determination in this investigation from December 7, 2021, to January 26, 2022.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Investigation

The product covered by this investigation is AB rubber from France. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>4</sup> in the *Initiation Notice*, Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> Based on Commerce's analysis of

---

<sup>1</sup> *See Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Initiation of Less-Than-Fair-Value Investigations*, 86 FR 40192 (July 27, 2021) (*Initiation Notice*).

<sup>2</sup> *See Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations*, 86 FR 64185 (November 17, 2021).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Acrylonitrile-Butadiene Rubber from France," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*, 86 FR at 40193.

<sup>6</sup> *See* Memorandum, "Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

the parties' comments, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the revised scope in Appendix I to this notice.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

### Preliminary Affirmative Determination of Critical Circumstances, in Part

On January 5, 2022, the petitioner<sup>7</sup> timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the subject merchandise from France.<sup>8</sup> Section 733(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period.

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances do not exist with respect to imports of AB rubber produced and exported by Arlanxeo Emulsion Rubber France S.A.S. (Arlanxeo France). Furthermore, we preliminarily determine that critical circumstances exist with respect to imports

---

<sup>7</sup> The petitioner in this investigation is Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner).

<sup>8</sup> See Petitioner's Letter, "Acrylonitrile-Butadiene Rubber from France: Petitioner's Allegation of Critical Circumstances," dated January 5, 2022.

of AD Rubber produced and exported by all other producers and exporters from France. For a full description of Commerce's preliminary critical circumstances determination, *see* the Preliminary Decision Memorandum.

#### All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated an individual estimated weighted-average dumping margin for Arlanxeo France, the sole mandatory respondent, that is not zero, *de minimis*, or based entirely on facts otherwise available. Consequently, the rate calculated for Arlanxeo France is also assigned as the rate for all other producers and exporters in France, pursuant to section 735(c)(5)(A) of the Act.

#### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Arlanxeo Emulsion Rubber France S.A.S.	164.13
All Others	164.13

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise described in Appendix I on or after the date of publication of this notice in the *Federal Register*. Further,

pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, the suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As noted above, Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced and exported by all other producers and exporters from France. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of AB rubber that were produced and exported by all other producers and exporters that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication date of this notice in the *Federal Register*.

These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose to interested parties any calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

## Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation.

Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

## Public Comment

The deadlines for the submission of case and rebuttal briefs with respect to scope issues are specified in the Preliminary Scope Decision Memorandum. Interested parties will be notified of the deadline for the submission of case briefs with respect to non-scope issues at a later date. Rebuttal briefs, limited to issues raised in non-scope related case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>10</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and

---

<sup>9</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>10</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On December 20, 2021, pursuant to 19 CFR 351.210(e), Arlanxeo France requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>11</sup> In accordance with sections 735(a)(2)(A) and 733(d)(3) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, pursuant to section 735(a)(2) of the Act, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

---

<sup>11</sup> See Arlanxeo France's Letter, "Acrylonitrile-Butadiene Rubber from France, Case No. A-427-832: Request to Postpone Final Determination," dated December 20, 2021.

### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of AB rubber from France are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c) and 19 CFR 351.210(g).

Dated: January 26, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.



## Appendix I

### Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.*, carbon black, silica, clay); reinforcement agents (*e.g.*, fibers, carbon black, silica); vulcanization agents (*e.g.*, sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as AB Rubber) produced by subsequent dissolution and hydrogenation of AB Rubber; and (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Discussion of the Methodology
- V. Date of Sale
- VI. Product Comparisons
- VII. Constructed Export Price
- VIII. Normal Value
- IX. Preliminary Determination of Critical Circumstances
- X. Currency Conversion
- XI. Recommendation

[FR Doc. 2022-02112 Filed: 2/1/2022 8:45 am; Publication Date: 2/2/2022]